

Notice No.: 92-002

Date: January 30, 1992

Applies to: PERS employers

Subject: Evaluating position eligibility

Determining whether or not to enroll and report an employee is one of the most important actions you take with regard to the Public Employees' Retirement System (PERS). This notice explains your responsibilities and provides information on how to correctly make eligibility determinations.

Employers are Responsible for Determining Eligibility

The Department of Retirement Systems (DRS) ultimately is responsible to administer the retirement laws requiring PERS membership for employees in eligible positions. However, your responsibility as an employer has several elements.

You define your positions.

The definition of a position is your responsibility. Current retirement law relates a position's eligibility to your definition of how many months and hours the position will normally require. You also determine how many positions you have.

You evaluate the eligibility of your positions.

Compare each of your positions against the standard for an eligible position. As of September 1, 1991, this standard is the same for both PERS Plan 1 and Plan 2.

An eligible position is any position which normally requires at least 5 months of 70 or more hours of compensated employment each year. A year, as used here, is any period of 12 consecutive months.

The second section of this notice will help you use this guideline to make specific eligibility determinations.

You document your eligibility determinations.

It is important that you keep a record of your eligibility determinations. Your documentation will show how many hours per month and months per year you expected the position to require. These facts will support your decision to enroll or not enroll an employee if questions arise.

You report members from their first day in an eligible position.

When you hire an employee into an eligible position, you must report him or her on your Transmittal Report from the first day of employment unless the employee is a retiree from a Washington State retirement system. (Refer to the *Monthly Transmittal Reporting Handbook* for retiree employment and reporting requirements.)

You review your positions to discover changes in their eligibility.

When a position's requirements change, eligibility for PERS may change. Re-evaluating your positions regularly will help ensure that you are correctly reporting your employees.

Factors to Consider When Making Eligibility Determinations

Begin with these questions when determining basic position eligibility:

1. "Do I expect the position ever to require 70 or more hours of compensation in a month?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—ask question 2.
2. "Do I expect the position ever to require 5 or more months with at least 70 hours of compensation per month in any 12 month period?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—ask question 3.
3. "Will this position 'normally' meet the eligibility standard?" That is, "Do I expect the position to have at least 5 months of 70 hours during the first year and to meet this standard at least once in each 2-year period?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—consider this position eligible.

Consider all of an employee's work as one position.

All work an employee does for you in a given month must be considered one position, even if different types of work are performed.

Example: An employee works for you 35 hours each month as a fiscal technician and at the same time works 40 hours each month for you as a personnel assistant.

For retirement purposes, this person is employed in one eligible position (75 hours each month), not two ineligible positions.

Example: An employee works for you in an ineligible position for the first three weeks of a month. On the 21st of the month he or she begins work in an eligible position for you.

The law now specifies that an employee's *monthly* work cannot be divided into more than one position. All of the employee's work during this month is considered eligible. Enroll the employee and report contributions for the entire month. The *begin date* for transmittal reporting is the first day the employee earned compensation in the month in which eligible employment was begun.

Do not consider personnel classifications when determining eligibility.

The personnel classification your agency gives to an employee (temporary, seasonal, substitute, part-time, intermittent, etc.) does not affect PERS eligibility. If the position is eligible, any amount of time an employee spends filling that position is considered eligible.

Clarify position definition when an employee is "filling in" for someone.

At times you may hire an employee to provide coverage for someone who is on leave or absent from an eligible position. How you define this employee's position is important. If you actually place your fill-in employee into the absent person's eligible position, the fill-in employee must be reported. However, if you have a separate position for assignments that require filling in for absent employees, eligibility depends on how you have defined and documented that position. The following examples show the difference.

Example: You hire an employee to fill in for someone on leave of absence from an eligible position. You place this person in the absent employee's eligible position.

The employee should be enrolled and reported starting with

the first day of employment. The personnel status of the person (substitute, temporary, etc.) does not change the eligibility of the position.

Example: One of your employees is on leave or absent from an eligible position. You hire another individual to help with coverage. You determine that this individual is being hired into a position different from the absent employee's eligible position.

Document the criteria used in determining that the position is different. Because the fill-in employee is not serving in the same position as the absent employee, you will also have to use the eligibility guideline to evaluate whether this second position is eligible.

Example: You frequently need personnel to fill in for employees who are absent or on leave. You create and define a position designed to fill these temporary needs. An employee in this position is assigned work that needs to be done on a short-term basis, filling in for employees who are on leave or absent.

This employee has an ongoing agreement to work for you whenever "fill-in" or "temporary" work is required, and you classify and document this work as a separate position. Evaluate the eligibility of the position based on whether each year it normally requires 5 months with 70 or more hours per month. If it does not, the position would be ineligible, and the employee should not be reported. However, if this position meets the eligibility standard, report the employee.

In situations such as these, good documentation of the position into which you hire the employee will give important support for your eligibility determination.

Keep your determinations correct by reviewing your positions.

If an employee in an ineligible position works more hours or months than you had expected, it may serve as a signal for you to review the position's eligibility. Similarly, if an employee you have enrolled in PERS has less than 5 months of 70 hours in a particular year, a review of the position may be called for.

Carefully consider whether this was an isolated incident, or whether the nature of the position has changed. If the position's requirements have changed, redefine the position, document your findings, and correct your reporting as described on the next page.

Example: A position which you had declared eligible continues for more than one year without requiring the employee to work 70 hours or more per month for at least 5 months each year.

Carefully review the position. If you determine that the position has changed and is no longer eligible, document this determination. Separate the employee from the transmittal system by reporting with status code "S," and submit a DRS Notice of Separation for that employee.

Example: You hire a person into an ineligible position, but during the year a change is made in hours of work the position requires. The position now requires 5 or more months of at least 70 hours and you expect that requirement to continue. Through an oversight, this employee is not being reported to DRS although the position is now eligible

Your review shows that a change in the position's requirements made it eligible. Declare the position eligible beginning from the date the requirements changed. Document the situation carefully. Begin reporting the employee. Contributions will be due back to the date of the change that made the position eligible.

Example: You hire a person into an ineligible position. In a review you notice that the position's workload has increased over the course of the past year, and the employee has earned compensation for 5 or more months of at least 70 hours.

Determine whether this was an isolated incident, or whether the position definition should be changed. If you expect the position to continue to require at least 5 months of 70 hours or more each year, declare the position eligible. Document the change in the position and your eligibility determination. Begin reporting the employee. Contributions are due beginning with the date you declare the position eligible.

Review your positions and document changes that you find. Your documentation will show whether a position changed or whether eligibility was determined incorrectly.

Example: A review shows you have made an error and have not been reporting contributions for an employee in a position that clearly was eligible.

Contributions must be made retroactively back to the date you hired the employee into this position.

Example: You failed to review a position which was originally classified as ineligible. Two consecutive years go by in which this position has at least 5 months of 70 hours or more per year.

The position will be declared eligible effective from the beginning of the first month the employee earned 70 or more hours of compensation in the first of the two years you are examining. Contributions will be due retroactively back to that date.

Questions?

For more information, refer to the expanded discussion of eligibility in the “Membership Guidelines” section of your *Monthly Transmittal Reporting Handbook* (September 1991 update). The *Handbook* also contains examples of some common situations and explains how you should respond.

NOTE: The examples in this notice use the current eligibility standard. The legal definition of eligible position comes from RCW 41.40.010 (25) (a), Laws of 1991.

When you are evaluating eligibility for periods prior to September 1, 1991, use the eligibility standard in effect at that time. The eligibility standards for various periods are given in your *Monthly Transmittal Reporting Handbook*.

If you have additional questions about eligibility or need other assistance, please feel free to contact DRS Membership Services at (206) 753-3113 or SCAN 234-3113.

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